

August 25, 2011

Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Nace, Mr. Ryland, Mr. Taibi, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Ms. McBride, Mr. Walchuk, Mrs. Corcoran
Mr. Badenhausen, Mr. Kastrud

Others Present: Atty. Mark Anderson, Atty. Lloyd Tubman, Robert Fallone,
Atty. Donald Morrow

Approval of Minutes: Mr. Ryland made a motion to approve the minutes of the August 11, 2011 workshop meeting. Mr. Ford seconded the motion.

Vote: Ayes: Mr. Ryland, Mr. Ford, Mr. Nace, Mr. Kirkpatrick
Abstain: Mr. Taibi

Mr. Ryland made a motion to approve the minutes of the June 23, 2011 Executive Session. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Ryland, Mr. Nace, Mr. Taibi, Mr. Ford
Abstain: Mr. Kirkpatrick

Mr. Nace made a motion to approve the minutes of the August 11, 2011 Executive Session. Mr. Ryland seconded the motion.

Vote: Ayes: Mr. Nace, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick
Abstain: Mr. Taibi

Issue of Completeness: Fallone: Block 22, Lot 34, Perryville Road - Request for Extension of Final Approval: Atty. Lloyd Tubman gave an overview of the application. Ms. Tubman asked for a two-year Extension of the Final Subdivision and Site Plan Approval. She said the Age-Restricted Adult Community application had been approved a number of years ago. State Statutes allow for extensions beyond two years for planned developments of fifty or more acres. Criteria for granting extensions include the number of dwelling units and non-residential floor area permissible under final approval, economic conditions, and the comprehensiveness of the development.

Atty. Tubman said the project consists of 130-age-restricted townhouse units and a clubhouse, an on-site sewage-treatment plant and extension of the Union Township Master Plan Road. Ms. Tubman said the economic climate for residential development, particularly age-restricted development, is dire, and no immediate economic recovery is forecast. She said a request for a two-year extension is appropriate. Mr. Kirkpatrick asked the length of time the existing approval would be extended by the State Permit Extension Act.

Atty. Tubman said that Act does not apply to the Fallone Project because it does not address properties in Planning Areas 4b and 5 under, the State Development and Redevelopment Plan. Ms. Tubman said that is why she is asking for an extension pursuant to the MLUL. Atty. Anderson said Final Approval was granted on November 29, 2007. One-year extensions were granted on August 13, 2009 and December 16, 2010. Mr. Ford asked if there were restrictions on the number of extensions the Board could grant. Atty. Tubman said there is none under the MLUL. Ms. Tubman said it is within the discretion of the Board because the property consists of more than fifty acres and, in her opinion, meets the comprehensive development criteria.

Mr. Kirkpatrick said the first issue is that of completeness. He had not heard any comments from professionals indicating the application was not complete. Mr. Kirkpatrick asked for a motion to deem the application complete. Mr. Ryland made the motion. Mr. Ford seconded the motion.

Vote: Ayes: Mr. Ryland, Mr. Ford, Mr. Nace, Mr. Taibi, Mr. Kirkpatrick

Mr. Kirkpatrick asked for a motion to grant a two-year Extension. He said it could be granted for one year or more than two years. Mr. Ford made a motion to extend the approval for two-years. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Taibi, Mr. Nace, Mr. Ryland, Mr. Kirkpatrick

Public Hearing: Lehigh Gas/Jutland Convenience Store: Block 13, Lot 11.01, 169 Perryville Road:

Atty. Donald Morrow was present on behalf of applicant. Mr. Morrow said that upon reviewing Engineer Clerico's letter dated August 15, 2011, he realized the new Traffic Study was based upon traffic counts taken in February 2009. Atty. Morrow said that Study is outdated. It had been prepared by Frank Montgomery who is presently serving in Afghanistan. Atty. Morrow spoke with Atty. Anderson about the issue. They agreed it would be inadvisable to begin the Public Hearing until a new Traffic Study was prepared and submitted to the Board. Mr. Morrow had submitted jurisdictional documents and asked they be marked into the record in order to open the Hearing. He would ask that the matter be carried. Atty. Morrow suggested preparing a schedule for submitting new information. He said applicant's new traffic consultant would prepare a report and submit it within fifteen days. Atty. Morrow had spoken with Robert Zederbaum about items raised by Mr. Clerico. Mr. Morrow said Mr. Zederbaum was also asked to address Mr. Clerico's concerns in fifteen days. Atty. Morrow would like to carry the Hearing until the October 27, 2011 meeting, giving Board Professionals adequate time to review new submissions.

Atty. Anderson concurred with Atty. Morrow about not proceeding without additional traffic information. He said, however, that adjournment is within the Board's discretion. Mr. Anderson said the application was filed on March 10, 2010 and has been extended several times. Mr. Kirkpatrick emphasized that Mr. Clerico's comments relate to the Site Plan that was submitted to the Board in March 2010. Mr. Kirkpatrick asked that applicant address questions and comments that were brought up at previous Hearings.

They included questions from the Board as well as their Professionals. Mr. Kirkpatrick asked that applicant provide a written response as to how they were addressing the questions and comments. He said a Board member asked if the underground storage tanks could be moved from the existing area to another location. Atty. Morrow said he has documents addressing that concern. Mr. Ford asked that the new submissions be sent to Professionals and Board Members in a timely manner. Atty. Morrow indicated they would be available within fifteen days of tonight.

Mr. Kirkpatrick said there is a request to the Board to make a decision regarding opening the Public Hearing and granting an Extension until the October Board meeting. Mr. Taibi said that in addition to addressing relocation of the storage tanks, applicant should be prepared to address the age of the tanks and the manufacturer's recommended life of the tanks. Atty. Morrow said he has documents regarding those issues. Mr. Taibi also asked to be precisely informed what days traffic counts would be taken. Atty. Morrow told Mr. Taibi he would have the traffic engineer contact him directly. Mr. Ford said the traffic counts should coincide with days Schools are in session. Mr. Kirkpatrick said the Board's experience has been that traffic counts done using various models and references do not accurately reflect the volume of traffic generated by convenience stores/gas stations. Mr. Kirkpatrick said very good data exists regarding the amount of water consumed by the type of facility proposed. He said manuals regarding water consumption are averages and do not apply to this application. The site is located at a very busy intersection. Atty. Morrow assured Mr. Kirkpatrick the matter would be addressed.

Mr. Kirkpatrick said the Board has a choice to discuss the application as submitted and make a decision or agree to extend the review period until November 11, 2011. Mr. Taibi made a motion that applicant be given the opportunity to review their studies and grant the extension. Mr. Kirkpatrick asked if Mr. Taibi preferred that applicant re-notice or just carry the Hearing. Mr. Taibi said he preferred to "just carry". Mr. Kirkpatrick preferred that applicant re-notice. Mr. Taibi amended the motion. Applicant will be required to re-notice the Newspaper and property owners. Mr. Ford seconded the motion.

Vote: Ayes: Mr. Taibi, Mr. Ford, Mr. Nace, Mr. Ryland, Mr. Kirkpatrick

Atty. Morrow signed an Extension of Time to Act through November 11, 2011.

Correspondence: None

Comments from the Public/Other Discussion: None

Motion to Adjourn: Mr. Kirkpatrick made a motion. Mr. Nace seconded the motion.

Vote: All Ayes (7:30 p.m.)

Grace A. Kocher, Secretary

